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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,576	11/03/2000	Nancy K. Mullen	10022/99	6665

28164 7590 04/15/2004
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EXAMINER

LIN, KENNY S

ART UNIT PAPER NUMBER

2154

DATE MAILED: 04/15/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/705,576

Applicant(s)

MULLEN ET AL.

Examiner

Kenny Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3, 8 and 10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-62 are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 29-60 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of copending Application No. 09/677065. Although the conflicting claims are not identical, they are not

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patentably distinct from each other because the copending application claims a netcentric computing system with tools, which are all incorporated in the current application claiming the same tools and limitations for a data warehouse computing system.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 29-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following limitation was repeated in the claim:

- i. As per claim 29, the limitation “at least one personal productivity tool” was claimed in line 6 and again in line 8 (i.e., do you mean “group productivity tool” in line 8?). Correction is needed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanai et al (herein after Hanai), An Integrated Software Maintenance Environment: Bridging Configuration Management and Quality Management, IEEE Computer society press, October 24 1988, pages 40-44, in view of "Official Notice".

8. As per claim 1, Hanai taught the invention substantially as claimed including a development architecture for a data warehouse computing system, comprising:

- a. A server connected with a client (fig.4, Implementation of ISCM, page 42-43);
and
- b. A software distribution tool (Configuration management, page 40), a configuration and assert management tool (Configuration management, page 40), a fault management and recovery management tool (ECMS, page 42), a capacity planning tool (Conformity, page 41, Upward-Compatibility, page 42), a performance management tool (Quality management, page 40), a remote management tool (ECMS, page 42), a event management tool (ECMS, page 42), a systems monitoring and tuning tool (Conformity, page 41), a security tool (Conformity, page 41), a user administration tool (Conformity, page 41) in said data warehouse computing system.

9. Hanai did not specifically teach to include a license management tool, a production control application set and a help desk too supporting said server and said client. However,

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Official Notice is taken that it would have been obvious to implement these tools to the system to provide more functions and enhance the system with the advantages of such tools. One of ordinary skill in the art would have been motivated to implement different types of tool as a design choice to support the system to satisfy all clients' needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools suitable and available at the time to fully support Hanai's data warehouse computing system with a design choices of tools.

10. As per claims 2-18, Hanai taught the invention substantially as claimed in claim 1. Hanai did not specifically teach the functions of all the comprised tools claimed in claims 2-18.

However, Official Notice is taken that it would have been obvious for the comprised tools to comprise the specific functions since the comprised tools are specific to particular purposes. For example, it would have been obvious to one of ordinary skill in the art to recognize that a software distribution tool can provide automated delivery and installation of applications, a asset management tool to manage assets, fault management and recovery management tool to detect fault and provide recovery method, performance management tool to monitor the performances for managing purpose, license management tool to manage the license information for the software, event management tool to manage events, monitoring and tuning tool to monitor all desire information, security tool to provide security, administration tool to provide administration for users, and help desk tool to provide help for users. Official Notice is taken that the limitation narrowed by these claims are consider obvious and furthermore a matter of design choice to implement functions to the tools that the system comprises to provide more

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functions and enhance the tools with the advantages of such functions. One of ordinary skill in the art would have been motivated to implement different types of tool with specific functions as a design choice to support the system to satisfy all clients' needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools that contains multiple functions suitable and available at the time to fully support Hanai's data warehouse computing system with a design choices of tools.

11. As per claims 19-28, since claims 19 and 24 contain the same scope of the combination of claims 1-3, 5-6, 8-11, 13-16 and 18, and claims 20-23 are 25-26 contain the same limitations with claims 4, 7, 12 and 17 respectively. Therefore they are rejected under the same rejection stated in rejecting claims 1-18 above.

12. As per claim 29, Hanai taught the invention substantially as claimed including a development architecture for a data warehouse computing system, comprising:

- a. At least one server connected with a client (fig.4, Implementation of ISCM, page 42-43);
- b. Wherein said server provides a common user interface between said server and said client (Implementation of ISCM, page 42-43), said server also providing at least one process management tool (Conformity, page 41), at least one quality management tool (Introduction, page 40), at least one environment management tool (ECMS, page 42), at least one program and project management tool

(Conformity, page 41, Upward-Compatibility, page 42) and at least one information management tool for use by said client (Conformity, page 41).

13. Hanai did not specifically teach to include at least one personal productivity tool and at least one system building tool. However, Official Notice is taken that it would have been obvious to implement these tools to the system to provide more functions and enhance the system with the advantages of such tools. One of ordinary skill in the art would have been motivated to implement different types of tool as a design choice to support the system to satisfy all clients' needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools suitable and available at the time to fully support Hanai's computing system with a design choices of tools.

14. As per claim 30, Hanai taught the invention substantially as claimed in claim 29. Hanai further taught that wherein said common user interface is used by said server to provide a graphical user interface to said client (ECMS, page 42).

15. As per claims 43 and 52, Hanai taught the invention substantially as claimed including a development architecture for a data warehouse computing system, comprising:

- a. A server connected with a client, wherein said server provides a common user interface between said server and said client (fig.4, Implementation of ISCM, page 42-43);

- b. A quality management tool for assuring that a predetermined agreed upon level of quality is maintained by said data warehouse computing system (Introduction, page 40);
- c. A environment management tool for monitoring the performance of said data warehouse computing system (Conformity, page 41);
- d. A program and project management tool for planning, scheduling, tracking and reporting on project segments in said data warehouse computing system (Conformity, page 41, Upward-Compatibility, page 42);
- e. A information management tool including a development repository, a folder management tool and a repository management tool (ECMS, page 42);
- f. A process management tool for allowing a respective said tool to communicate with another respective one of said tools in said data warehouse computer system (Conformity, page 41).

16. Hanai did not specifically teach to include a personal productivity tool that may be selected from the group consisting of a spreadsheet application, a graphic application, a word processor application and a personal calendar application for use by said client and said server; a system building tool for designing, building and testing application on said data warehouse computing system; and a team productivity tool for allowing users on said clients to communicate with other users in the data warehouse computing system. However, Official Notice is taken that it would have been obvious to implement these tools to the system to provide more functions and enhance the system with the advantages of such tools. One of ordinary skill

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in the art would have been motivated to implement different types of tool as a design choice to support the system to satisfy all clients' needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools suitable and available at the time to fully support Hanai's computing system with a design choices of tools.

17. As per claims 31-42, 44-51 and 53-60, Hanai taught the invention substantially as claimed in claims 29, 43 and 52. Hanai did not specifically teach the tools include more tools, the detail functionalities of the tools or that the tools may be selected from particular groups of tools. However, Official Notice is taken that it would have been obvious to implement more tools under particular tool category to provide more functions to the system implementing the advantages of such tools in the system. One of ordinary skill in the art would have been motivated to implement different types of tool as a design choice to support the system to satisfy all clients' needs and provide various functions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools suitable and available at the time to fully support Hanai's computing system with a design choices of tools.

18. As per claim 61, a data warehouse computing system, comprising:
- a. A server connected with a client (fig.4, Implementation of ISCM, page 42-43);
 - b. An operations architecture located on one of said server and said client, said operations architecture comprising a software distribution tool (Configuration

management, page 40), a configuration and asset management tool (Configuration management, page 40), a fault management and recovery management tool (ECMS, page 42), a capacity planning tool (Conformity, page 41, Upward-Compatibility, page 42), a performance management tool (Quality management, page 40), a remote management tool (ECMS, page 42), an event management tool (ECMS, page 42), a systems monitoring and tuning tool (Conformity, page 41), a security tool (Conformity, page 41), a user administration tool (Conformity, page 41); and

- c. A development architecture located on one of said server and said client, said development architecture comprising a common user interface between said server and said client (Implementation of ISCM, page 42-43), a process management tool (Conformity, page 41), a quality management tool (Introduction, page 40), an environment management tool (ECMS, page 42), a program and project management tool, a personal productivity tool (Conformity, page 41, Upward-Compatibility, page 42) and an information management tool (Conformity, page 41).

19. Hanai did not specifically teach to include a license management tool, a production control application set and a help desk too supporting said server and said client; a personal productivity tool and a system building tool. However, Official Notice is taken that it would have been obvious to implement these tools to the system to provide more functions and enhance the system with the advantages of such tools. One of ordinary skill in the art would have been

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motivated to implement different types of tool as a design choice to support the system to satisfy all clients' needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select and implement different types of tools suitable and available at the time to fully support Hanai's data warehouse computing system with a design choices of tools.

20. As per claim 62, a data warehouse computing system, comprising:

- a. A server connected with a client (fig.4, Implementation of ISCM, page 42-43);
- b. A data warehouse architecture, located on at least one of the server and the client, for distributing data from a data source to an end-user (Configuration management, page 40);
- c. A development architecture, located on at least one of the server and the client, for designing, implementing, and maintaining the data warehouse computing system (Introduction, page 40; Conformity, page 41; Upward-Compatibility, page 42; ECMS, page 42; Implementation of ISCM, page 42-43); and
- d. An operations architecture, located on one of the server and the client, for supporting the data warehouse architecture and the development architecture (Configuration management, page 40; Implementation of ISCM, page 42-43).

21. Hanai did not specifically teach that the development architecture reduces the effort and costs involved in the functions. However, Official Notice is taken that both the concept and advantage of using a development architecture that simplifies the implementation and lower maintenance cost is well known and expected in the art. It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to combine the teachings of Hanai with a development architecture which would lower the cost in maintenance and simplify system implementations.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bowman-Amuah, US 6,289,382.

Brandt et al, US 5,892,905.

Vines et al, US 6,006,171.

Bauer, US 5,877,759.

23. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 872-9306

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-6121.

ksl

April 9, 2004



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100